IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

Writ petition NO. 1516 of 2005

Kasana Foods Pvt.Ltd. and anr.. ... Petitioners

vs.

The Commissioner of Income-tax & ors. . ... Respondents

Mr. Chetan Kapadia
i/b. Shreeji & Lal for Petitioners
Mr. A. K. Kotangale for Respondents.

CORAM: **S. RADHAKRISHNAN**
AND
A. S. AGUIAR J.J.

Date: 13/6/2005

P.C.

1. Heard learned counsel for the Petitioners and the Respondents.

2. By this petition the Petitioners are challenging the order dated 30th March 2005 passed by the Commissioner of Income-tax VIII, Mumbai, under section 127(2) of the Income Tax Act 1961. There is no dispute that the Petitioners were given a prior show cause notice and thereafter the impugned order came to be passed. The show cause notice is dated 11th March 2005. The show cause notice clearly indicates that the raid had taken place with regard to Kasana Foods (P) Ltd., and Haldiram Bhujiyawala Group, who were interconnected and during the search and seizure operation

materials were seized and on verification of details the Income Tax authorities found that it would be proper to centralize with ACIT, Central Circle 2(2), Nagpur for coordinate investigation. Accordingly show cause notice was issued to the Petitioners to file objection , if any with regard to the proposed transfer / centralization of the cases. After hearing the Petitioners fully the CIT-VIII, Mumbai by an order dated 30.3.2005 found that the Petitioners also belonged to Haldiram Bhujiyawala Group and that search under section 132 of the I.T. Act has been conducted in the group of cases on 20.1.2005 and to facilitate coordinated and detailed investigation in the group of cases , centralization of the cases with the ACIT, Central Circle -2(2) was necessary.

3. Learned counsel for the Petitioners sought to rely on the judgment of the Calcutta High Court, reported in **1997 TAX L.R. 328 (Chotanagpur Industrial Gases (P) Ltd. Vs. Commissioner of Income Tax)**. In the said case no grounds or reasons for the proposed transfer of cases were indicated in the show cause notice, and in view thereof the Calcutta High Court had interfered. In the present case in view of the material disclosed during the search it was felt that it was necessary to centralize the investigation at Nagpur. The above reason has been disclosed in the show cause notice. Therefore , the aforesaid decision will be of no help to the

Petitioners. Personal inconvenience of an assessee cannot over ride a public interest necessitating such transfer and as such the aforesaid centralization of investigation at Nagpur cannot be faulted with. There is no dispute that the Petitioners are in fact having manufacturing activities as well as their office at Nagpur. Under these circumstances we do not find any illegality or perversity in the aforesaid order. Hence the petition stands dismissed.

S. RADHAKRISHNAN J.

A. S. AGUIAR J.

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